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**IN THE DISTRICT COURT OF GUAM
TERRITORY OF GUAM**

LOURDES P. AGUON-SCHULTE,

Plaintiff,

vs.

THE GUAM ELECTION COMMISSION,
et al.

Defendants.

Civil Case No. 04-00046

(removed from the Superior Court of Guam
Civil Case No. CV-1103-04)

JAY MERRILL, etc., et al.

Plaintiff,

vs.

THE GUAM ELECTION COMMISSION,
et al.

Defendants.

(removed from the Superior Court of Guam
Civil Case No. CV-1111-04)

**MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
DEFENDANTS' MOTION FOR ORDER
ISSUING WRIT OF CERTIORARI TO
SUPERIOR COURT OF GUAM FOR
RECORD IN REMOVED ACTIONS**

DEFENDANTS hereby move this Court pursuant to 28 U.S.C. § 1447(b) for issuance of
a writ of certiorari to the Superior Court of Guam, commanding the Superior Court of Guam to

1 bring to this Court, a true, full and correct copy of all records and proceedings taken and had in
2 such court in the above-entitled actions, on the following grounds:

3 1. On or about October 18, 2004, an action was commenced in the Superior Court of
4 Guam entitled *Lourdes P. Aguon-Schulte v. Guam Election Commission*, CV-1103-04.

5 2. On or about October 25, 2004, an action was commenced in the Superior Court of
6 Guam entitled *Jay Merrill v. Guam Election Commission*, CV-1111-04.

7 3. On or about October 26, 2004, the defendants removed both of the above-entitled
8 actions from the Superior Court of Guam by filing notices of removal in each and by duly
9 notifying plaintiffs of the forgoing removal pursuant to 28 U.S.C. § 1446.
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11 4. On November 23, 2004, this Court *sua sponte* ordered the consolidation of the above-
12 styled matters under Civil Case No. 04-00046.

13 5. At the suggestion of the Clerk of Court, defendants respectfully request, pursuant to 28
14 U.S.C. § 1447(b), that this Court issue a writ of certiorari ordering the Superior Court of Guam
15 to produce all of the records in the above-entitled actions. *See* 29A Fed.Proc. L.Ed. § 69:1-7
16 (West 1998) (“A party seeking removal may be required to file with the clerk of the Federal
17 District Court to which an action has been removed copies of all records and proceedings had in
18 the state court. Alternatively, such material may be secured through the issuance of a writ of
19 certiorari from the District Court to the state court.”); W. Schwarzer, A.W. Tashima, J.
20 Wagstaffe, California Practice Guide: Federal Civil Procedure Before Trial, “Removal
21 Jurisdiction” ¶ 2:987 (“Under 28 U.S.C. § 1447(b), the federal court can issue a writ of certiorari
22 ordering the state court to produce all of the records in the case.”)
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1 Respectfully submitted this 29th day of November, 2004.

2 OFFICE OF THE ATTORNEY GENERAL
3 Douglas B. Moylan, Attorney General

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5 ROBERT M. WEINBERG
6 Assistant Attorney General
7 For All Defendants
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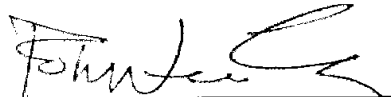
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6 For proposed Intervenor, *Lina 'La 'Sin Casino*

7 this 29th day of November, 2004.

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